

109TH CONGRESS  
2D SESSION

# S. 2364

To provide lasting protection for inventoried roadless areas within the  
National Forest System.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2, 2006

Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HARKIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. MENENDEZ, Mr. AKAKA, Mr. DODD, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide lasting protection for inventoried roadless areas  
within the National Forest System.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Roadless Area Con-  
5       servation Act of 2006”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) IN GENERAL.—Congress finds that—

8               (1) there is a compelling need to establish na-  
9       tional protection for inventoried roadless areas of the

1 National Forest System in order to protect the  
2 unique social and ecological values of those irreplace-  
3 able resources;

4 (2) roadless areas protect healthy watersheds  
5 and their numerous benefits including—

6 (A) protecting downstream communities  
7 from floods and tempering the effects of  
8 drought;

9 (B) ensuring a supply of clean water for  
10 domestic, agricultural, and industrial uses;

11 (C) helping maintain abundant and healthy  
12 fish and wildlife populations and habitats;

13 (D) providing the setting for many forms  
14 of outdoor recreation; and

15 (E) providing drinking water to millions of  
16 citizens from the more than 354 municipal wa-  
17 tersheds found on roadless areas;

18 (3) maintaining roadless areas in a relatively  
19 undisturbed condition—

20 (A) saves downstream communities mil-  
21 lions of dollars in water filtration costs; and

22 (B) is crucial to preserve the flow of af-  
23 fordable, clean water to a growing population;

24 (4) the protection of roadless areas can main-  
25 tain biological strongholds and refuges for many im-

1       periled species by halting the ongoing fragmentation  
2       of the landscape into smaller and smaller parcels of  
3       land divided by road corridors;

4           (5) roadless areas conserve native biodiversity  
5       by serving as a bulwark against the spread of non-  
6       native invasive species;

7           (6) roadless areas provide unparalleled opportu-  
8       nities for hiking, camping, picnicking, wildlife view-  
9       ing, hunting, fishing, cross-country skiing, canoeing,  
10      mountain-biking, and similar activities;

11          (7) while roadless areas may have many wilder-  
12      ness-like attributes, unlike wilderness areas, the use  
13      of mechanized means of travel is allowed in many  
14      roadless areas;

15          (8) roadless areas contain many sites sacred to  
16      Native Americans and other groups that use  
17      roadless areas for spiritual and religious retreats;

18          (9) from the inception of Federal land manage-  
19      ment, it has been the mission of the Forest Service  
20      and other agencies to manage the National Forest  
21      System for the dual purposes of resource extraction  
22      and conservation;

23          (10) consistent with that dual mission, this  
24      Act—

1 (A) protects social and ecological values,  
2 while allowing for many multiple uses of inven-  
3 toried roadless areas; and

4 (B) does not impose any limitations on the  
5 use of, or access to Nation Forest System,  
6 State, or private land outside inventoried  
7 roadless areas;

8 (11) establishing a consistent national policy for  
9 the protection of inventoried roadless areas—

10 (A) ensures that the considerable long-  
11 term ecological and economic benefits of pro-  
12 tecting roadless areas for future generations are  
13 properly considered;

14 (B) diminishes the likelihood of con-  
15 troversy at the project level; and

16 (C) enables the Chief of the Forest Service  
17 to focus on the economic and environmental  
18 benefits of reducing hazardous fuel buildups in  
19 portions of the landscape that already have  
20 roads;

21 (12) the National Fire Plan indicates that fires  
22 are almost twice as likely to occur in roaded areas  
23 as in roadless areas, because roadless areas are gen-  
24 erally located further away from communities and  
25 are harder to access;

1           (13) the report entitled “Protecting People and  
2           Sustaining Resources in Fire-Adapted Ecosystems—  
3           A Cohesive Strategy” (65 Fed. Reg. 67480) advo-  
4           cates a higher priority for fuel reduction on land  
5           that is near communities and readily accessible mu-  
6           nicipal watersheds;

7           (14) the Forest Service has an enormous back-  
8           log of maintenance needs for the existing 386,000  
9           mile road system of the Forest Service that will cost  
10          millions of dollars to eliminate;

11          (15) no State or private land owner would con-  
12          tinue to build new roads in the face of such an enor-  
13          mous backlog;

14          (16) failure to maintain forest roads—

15                (A) limits public access; and

16                (B) causes degradation of water quality  
17                and wildlife and fish habitat; and

18          (17) protection of roadless areas—

19                (A) will impact less than 0.5 percent of the  
20                national timber supply; and

21                (B) will have a negligible impact on oil and  
22                gas production because—

23                       (i) the entire National Forest System  
24                       provides only approximately 0.4 percent of

1 the quantity of oil and gas that is pro-  
 2 duced in the United States; and

3 (ii) roadless areas provide only a frac-  
 4 tion of the quantity of oil and gas that is  
 5 produced in the National Forest System.

6 (b) PURPOSE.—The purpose of this Act is to provide,  
 7 within the context of multiple-use management, lasting  
 8 protection for inventoried roadless areas within the Na-  
 9 tional Forest System.

# 10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) CLASSIFIED ROAD.—

13 (A) IN GENERAL.—The term “classified  
 14 road” means a road wholly or partially within,  
 15 or adjacent to, National Forest System land  
 16 that is determined to be needed for long-term  
 17 motor vehicle access.

18 (B) INCLUSIONS.—The term “classified  
 19 road” includes a State road, county road, pri-  
 20 vately-owned road, National Forest System  
 21 road, and any other road authorized by the  
 22 Forest Service.

23 (2) INVENTORIED ROADLESS AREA.—The term  
 24 “inventoried roadless area” means 1 of the areas  
 25 identified in the set of inventoried roadless area

1 maps contained in the document entitled “Forest  
2 Service Roadless Areas Conservation, Final Environ-  
3 mental Impact Statement, Volume 2”, dated Novem-  
4 ber 2000.

5 (3) RESPONSIBLE OFFICIAL.—The term “re-  
6 sponsible official” means a Forest Service line offi-  
7 cer or employee with the authority and responsibility  
8 to make decisions regarding the protection and man-  
9 agement of inventoried roadless areas under this  
10 Act.

11 (4) ROAD.—The term “road” means a motor  
12 vehicle travelway over 50 inches wide, unless des-  
13 ignated and managed as a trail.

14 (5) ROAD CONSTRUCTION.—The term “road  
15 construction” means activity that results in the ad-  
16 dition of classified road or temporary road miles.

17 (6) ROAD IMPROVEMENT.—The term “road im-  
18 provement” means activity that results in—

19 (A) an increase of the traffic service level  
20 of an existing road;

21 (B) an expansion of the capacity of the  
22 road; or

23 (C) a change in the original design func-  
24 tion of the road.

1           (7) ROADLESS AREA CHARACTERISTICS.—The  
 2       term “roadless area characteristics” means re-  
 3       sources or features that are often present in and  
 4       characterize inventoried roadless areas, including—

5           (A) high quality or undisturbed soil, water,  
 6       and air;

7           (B) sources of public drinking water;

8           (C) diversity of plant and animal commu-  
 9       nities;

10          (D) habitat for—

11           (i) threatened, endangered, candidate,  
 12       or sensitive species, and species proposed  
 13       for listing, under the Endangered Species  
 14       Act of 1973 (16 U.S.C. 1531 et seq.); and

15           (ii) species dependent on large, undis-  
 16       turbed areas of land;

17          (E) primitive, semiprimitive nonmotorized,  
 18       and semiprimitive motorized classes of dis-  
 19       persed recreation;

20          (F) reference landscapes;

21          (G) natural appearing landscapes with  
 22       high scenic quality;

23          (H) traditional cultural properties and sa-  
 24       cred sites; and



1 (I) other locally identified unique charac-  
 2 teristics.

3 (8) ROAD MAINTENANCE.—The term “road  
 4 maintenance” means ongoing upkeep of a road nec-  
 5 essary to retain or restore the road in accordance  
 6 with approved road management objectives.

7 (9) ROAD REALIGNMENT.—The term “road re-  
 8 alignment” means an activity that results in—

9 (A) a new location of all or part of an ex-  
 10 isting road; and

11 (B) treatment of the old roadway.

12 (10) ROAD RECONSTRUCTION.—The term “road  
 13 reconstruction” means an activity that results in im-  
 14 provement or realignment of an existing classified  
 15 road.

16 (11) TEMPORARY ROAD.—The term “temporary  
 17 road” means a road that is—

18 (A) authorized by contract, permit, lease,  
 19 other written authorization, or emergency oper-  
 20 ation; and

21 (B) not intended to be part of the forest  
 22 transportation system and not necessary for  
 23 long-term resource management.

24 (12) UNCLASSIFIED ROAD.—The term “unclas-  
 25 sified road” means a road on National Forest Sys-

1       tem land that is not managed as part of the forest  
2       transportation system, including—

3               (A) an unplanned road, abandoned  
4               travelway, or off-road vehicle track that has not  
5               been designated and managed as a trail; and

6               (B) a road that was once under permit or  
7               other authorization and was not decommis-  
8               sioned on the termination of the authorization.

9   **SEC. 4. PROHIBITION ON ROAD CONSTRUCTION AND ROAD**  
10                   **RECONSTRUCTION       IN       INVENTORIED**  
11                   **ROADLESS AREAS.**

12       (a) PROHIBITION.—Except as provided in subsection  
13 (b), road construction and road reconstruction may not  
14 take place in an inventoried roadless area of the National  
15 Forest System.

16       (b) EXCEPTIONS.—Road construction and road re-  
17 construction may take place, including through the use of  
18 appropriated funds, in an inventoried roadless area of the  
19 National Forest System if the responsible official deter-  
20 mines that—

21               (1) a road is needed to protect public health  
22               and safety in a case of an imminent threat of flood,  
23               fire, or other catastrophic event that, without inter-  
24               vention, would cause the loss of life or property;

25               (2) a road is needed to conduct—

1 (A) a response action under the Com-  
2 prehensive Environmental Response, Compensa-  
3 tion, and Liability Act of 1980 (42 U.S.C. 9601  
4 et seq.); or

5 (B) a natural resource restoration action  
6 under—

7 (i) that Act;

8 (ii) section 311 of the Federal Water  
9 Pollution Control Act (33 U.S.C. 1321); or

10 (iii) the Oil Pollution Act of 1990 (33  
11 U.S.C. 2701 et seq.);

12 (3) a road is needed pursuant to a reserved or  
13 outstanding right, or as provided for by law or trea-  
14 ty;

15 (4) a road realignment is needed—

16 (A) to prevent irreparable resource damage  
17 that arises from the design, location, use, or de-  
18 terioration of a classified road that cannot be  
19 mitigated by road maintenance; and

20 (B) to provide for essential public or pri-  
21 vate access, natural resource management, or  
22 public health or safety;

23 (5) road reconstruction is needed to implement  
24 a road safety improvement project on a classified  
25 road determined to be hazardous on the basis of ac-

1       cident experience or accident potential with respect  
2       to the road;

3               (6)(A) a Federal-aid highway project authorized  
4       under chapter 1 of title 23, United States Code, is—

5                       (i) in the public interest; or

6                       (ii) consistent with the purposes for which  
7       the land was reserved or acquired; and

8               (B) no other reasonable and prudent alternative  
9       to the project exists; or

10              (7)(A) a road is needed in conjunction with—

11                      (i) the continuation, extension, or renewal  
12       of a mineral lease on land that is under lease  
13       by the Secretary of the Interior as of January  
14       12, 2001; or

15                      (ii) the issuance of a new lease issued im-  
16       mediately on the date of expiration of an exist-  
17       ing lease described in clause (i);

18              (B) road construction or road reconstruction  
19       under this paragraph will be conducted in a manner  
20       that—

21                      (i) minimizes the effects on surface re-  
22       sources;

23                      (ii) prevents unnecessary or unreasonable  
24       surface disturbance; and

1 (iii) complies with all applicable laws (in-  
 2 cluding regulations), lease requirements, and  
 3 land and resource management plan directives;  
 4 and

5 (C) a road constructed or reconstructed under  
 6 this paragraph will be removed on the earlier of—

7 (i) the date on which the road is no longer  
 8 needed for the purposes of the lease; or

9 (ii) the date of termination or expiration of  
 10 the lease.

11 (c) ROAD MAINTENANCE.—A classified road in an  
 12 inventoried roadless area may be maintained.

13 **SEC. 5. PROHIBITION ON TIMBER CUTTING, SALE, OR RE-**  
 14 **MOVAL IN INVENTORIED ROADLESS AREAS.**

15 (a) PROHIBITION.—Except as provided in subsection  
 16 (b), timber may not be cut, sold, or removed in an inven-  
 17 toried roadless area of the National Forest System.

18 (b) EXCEPTIONS.—Timber may be cut, sold, or re-  
 19 moved in an inventoried roadless area if the responsible  
 20 official determines that the cutting, sale, or removal of the  
 21 timber is expected to be infrequent and—

22 (1) the cutting, sale, or removal of generally  
 23 small diameter timber—

24 (A) will improve or maintain 1 or more  
 25 roadless area characteristics; and

1 (B) is needed—

2 (i) to improve habitat for threatened,  
3 endangered, candidate, or sensitive species,  
4 and species proposed for listing, under the  
5 Endangered Species Act of 1973 (16  
6 U.S.C. 1531 et seq.); or

7 (ii) to maintain or restore the charac-  
8 teristics of ecosystem composition and  
9 structure, such as to reduce the risk of  
10 uncharacteristic wildfire effects, within the  
11 range of variability that would be expected  
12 to occur under a natural disturbance re-  
13 gime of the current climatic period;

14 (2) the cutting, sale, or removal of timber is in-  
15 cidental to the implementation of a management ac-  
16 tivity not otherwise prohibited by this Act;

17 (3) the cutting, sale, or removal of timber is  
18 needed and appropriate for personal or administra-  
19 tive use, in accordance with part 223 of title 36,  
20 Code of Federal Regulations; or

21 (4) roadless characteristics have been substan-  
22 tially altered in a portion of an inventoried roadless  
23 area as a result of the construction of a classified  
24 road and subsequent timber harvest, if—

1 (A) the road construction and subsequent  
2 timber harvest occurred after the area was des-  
3 ignated an inventoried roadless area and before  
4 January 12, 2001; and

5 (B) timber is cut, sold, or removed only in  
6 the substantially altered portion of the inven-  
7 toried roadless area.

8 **SEC. 6. SCOPE AND APPLICABILITY.**

9 (a) EFFECT.—This Act does not—

10 (1) revoke, suspend, or modify any permit, con-  
11 tract, or other legal instrument authorizing the occu-  
12 pancy and use of National Forest System land  
13 issued or entered into before January 12, 2001;

14 (2) compel the amendment or revision of any  
15 land and resource management plan;

16 (3) revoke, suspend, or modify any decision con-  
17 cerning any project or activity made before January  
18 12, 2001; or

19 (4) apply to road construction, reconstruction,  
20 or the cutting, sale, or removal of timber in an  
21 inventoried roadless area of the Tongass National  
22 Forest if a notice of availability of a draft environ-  
23 mental impact statement for such activity has been  
24 published in the Federal Register before January  
25 12, 2001.

1       (b) LIMITATION ON REVISION.—The prohibitions and  
2 restrictions established in this Act are not subject to re-  
3 consideration, revision, or rescission in any subsequent  
4 project decision or amendment or revision to any land and  
5 resource management plan carried out in accordance with  
6 section 6 of the Forest and Rangeland Renewable Re-  
7 sources Planning Act of 1974 (16 U.S.C. 1604).

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